

## **EXHIBIT 5**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NEW YORK IMMIGRATION :  
COALITION, et al., :  
: Plaintiffs, : Case No.  
v. : 1:18-CF-05025-JMF  
UNITED STATES DEPARTMENT :  
OF COMMERCE, et al., : Defendants. :

Friday, October 12, 2018  
Washington, D.C.

Videotaped Deposition of:

JOHN M. ABOWD, Ph.D.,  
called for oral examination by counsel for the  
Plaintiffs, pursuant to notice, at the law offices of  
Arnold & Porter Kaye Scholer, LLP, 601 Massachusetts  
Avenue, Northwest, Washington, D.C. 20001-3743,  
before Christina S. Hotsko, RPR, CRR, of Veritext  
Legal Solutions, a Notary Public in and for the  
District of Columbia, beginning at 9:06 a.m., when  
were present on behalf of the respective parties:

1 qualitative information that we have done after  
2 many censuses, I know after all the recent ones,  
3 to try to get a better idea in the hard-to-count  
4 populations of what the issues were.

5 Q. So the one acronym you used that I'm not  
6 familiar with R&M.

7 A. Oh, research and methodology. That's the  
8 directorate that I'm in charge of. Sorry.

9 Q. And who's the individual you were  
10 referring to who just retired?

11 A. Patricia Suerte. I'm not sure I can  
12 spell the last name, but I could correct it when  
13 the transcript comes through.

14 Q. Okay. Shifting gears, if you want to go  
15 back to your report, Exhibit -- I'm sorry, page 3,  
16 Exhibit 1. I want to ask just one more series of  
17 questions about conclusion 2.

18 So with regard to the first sentence of  
19 conclusion 2, why hasn't the Census Bureau  
20 conducted a study to see if there's credible  
21 quantitative evidence that the addition of a  
22 citizenship question in the 2020 census would

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1 increase the net undercount or increase  
2 differential net undercounts for identifiable  
3 subpopulations?

4 MS. WELLS: Object to the form.

5 THE WITNESS: Because we believe the  
6 qualitative analysis that we've already produced  
7 is sufficient to justify our recommendation not to  
8 ask the question.

9 BY MR. FREEDMAN:

10 Q. Has anybody within the Census Bureau  
11 proposed doing that additional analysis to produce  
12 credible qualitative evidence that the addition of  
13 a citizenship question in the 2020 census will  
14 increase the net undercount or increase the  
15 differential net undercounts for identifiable  
16 subpopulations?

17 A. Yes.

18 Q. Who?

19 A. Me.

20 Q. And what happened?

21 A. Well, I had to do a feasibility study by  
22 discussing it with the experts and determining

1       whether they had artifacts that might be useful  
2       for that or, if not, whether the methods that we  
3       are experienced in implementing for dual system  
4       estimation could be used for that.

5                  I consulted internal experts, including  
6       the person I consider to be the world's biggest  
7       expert on this, and they didn't think that we  
8       could do it.

9                  Q. Is that still an open question, whether  
10      you can do it?

11                 A. It's not an open question as to whether I  
12      should devote staff research time to doing it.  
13      I'd say it's an open question as to whether the  
14      coverage measurement program could be used for  
15      that purpose. Yes.

16                 Q. So whose decision was it not to undertake  
17      any analysis to see if the --

18                 A. So we don't make decisions like that,  
19      like chain of command on things like that. It was  
20      within my scope of authority to assemble the team  
21      to do that. I would have had to pull most of them  
22      off their current 2020 operations and divert them

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1 from other research projects that are directly  
2 related to other interests.

3           And as I've said, we didn't believe that  
4 credible quantitative information about net  
5 undercounts was necessary for our recommendation  
6 to the Secretary or to defend our current  
7 mitigation.

8           All of the components are going to be  
9 affected. And they could drive the net  
10 undercounts way up or they could drive them way  
11 down. And I wish that I had a better assessment  
12 of that, but it is my expert opinion that the  
13 resources required to do that are better deployed  
14 in making the 2020 census work.

15           Q. In terms of the OMB clearance package,  
16 who is responsible for approving the package to  
17 send to OMB at the Census Bureau?

18           A. So the responsibility for preparing it  
19 lies with the program area that wants to do the  
20 activity. So the responsibility for preparing it  
21 lies with the associate director for decennial  
22 census.

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, CHRISTINA S. HOTSKO, the officer before  
3 whom the foregoing deposition was taken, do hereby  
4 certify that the witness whose testimony appears in  
5 the foregoing deposition was duly sworn by me; that  
6 the testimony of said witness was taken by me in  
7 stenotypy and thereafter reduced to typewriting under  
8 my direction; that said statement is a true record of  
9 the proceedings; that I am neither counsel for,  
10 related to, nor employed by any of the parties to the  
11 action in which this statement was taken; and,  
12 further, that I am not a relative or employee of any  
13 counsel or attorney employed by the parties hereto,  
14 nor financially or otherwise interested in the  
15 outcome of this action.

16   
17

18 CHRISTINA S. HOTSKO

19 Notary Public in and for the  
20 District of Columbia

21 My commission expires:  
22 November 14, 2021